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UNITED STATES DISTRICT COURT
NORTHERN DIVISION OF CALIFORNIA

JOHN TEIXEIRA, STEVE NOBRIGA,
GARY GAMAZA, CALGUNS
FOUNDATION (CGF), INC., SECOND
AMENDMENT FOUNDATION (SAF), INC.,
and CALIFORNIA ASSOCIATION OF
FEDERAL FIREARMS LICENSEES (Cal-
FFL),

Plaintiffs,

v.

COUNTY OF ALAMEDA, ALAMEDA
BOARD OF SUPERVISORS (as a policy
making body), WILMA CHAN in her official
capacity, NATE MILEY in his official
capacity, and KEITH CARSON in his official
capacity,

Defendants.

Case No.: CV12-3288 (SI)

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF DEFENDANTS' REPLY
IN SUPPORT OF MOTION TO
DISMISS**

DATE: December 21, 2012

TIME: 9:00 a.m.

PLACE: Courtroom 10, 19th Floor

REQUEST FOR JUDICIAL NOTICE

The Defendants County of Alameda, Alameda Board of Supervisors, and Wilma Chan, Nate Miley and Keith Carson in their official capacities ("Defendants"), hereby request that the Court take judicial notice of the following documents previously filed in the Court's docket attached to Plaintiffs' Motion for Preliminary Injunction, Documents ## 20-15, 20-16, 20-17 and Doc. #20, Ex. T. Each of these documents are official Alameda County records. This request is made pursuant to Rule 201 of the Federal Rules of Evidence and the authorities cited below. This request is made in connection with Defendants' reply in support of their motion to dismiss Plaintiff's Complaint for Damages, Injunctive Relief and/or Declaratory Judgment (Doc. #1.)

Doc. #	Description
20-15	Alameda County Community Development Agency Planning Department Staff Report to the West County Board of Zoning Adjustments for Hearing Date December 14, 2011 regarding PLN-2001-00096
20-16	Letter to Plaintiffs regarding the adoption of Resolution No. Z-11-70 of the West County Board of Zoning Adjustments Adopted at the Hearing of December 14, 2011 Concerning Variance and Conditional Use Permit, PLN-2001-00096
20-17	West County Board of Zoning Adjustments Meeting Minutes for December 14, 2011 (Approved January 25, 2012)
20Ex.T	DVD of Alameda County Board of Supervisors Planning Meeting on February 28, 2012

MEMORANDUM OF POINTS AND AUTHORITIES

On a motion to dismiss, a court may take judicial notice of matters of public record in accordance with Federal Rule of Evidence 201 without converting the motion to dismiss to a motion for summary judgment. *Lee v. City of Los Angeles*, 250 F.3d 668, 688-89 (9th Cir. 2001) (citing *Mack v. South Bay Beer Distributors, Inc.*, 798 F.2d 1279, 1282 (9th Cir. 1986)). Courts may take judicial notice of documents that are "referenced in the complaint," and their "authenticity is unquestioned." Fed. R. Evid. 201(b); *Swartz v. KPMG LLP*, 476 F.3d 756, 763 (9th Cir. 2007) (stating "a court may consider a writing referenced in a complaint but not explicitly incorporated therein if the complaint relies on the document and its authenticity is unquestioned"). As explained

1 further below, the Court may take judicial notice of Documents ## 20-15, 20-16, 20-17
2 and Doc. #20, Ex. T.

3 As stated in *Lee*, the court may take judicial notice of “undisputed matters of
4 public record.” *Lee*, 250 F.3d at 690. Undisputed matters of public record include the
5 “records and reports of administrative bodies.” *United States v. Ritchie*, 342 F.3d 903,
6 909 (9th Cir. 2003) (quoting *Interstate Nat. Gas Co. v. S. Cal. Gas Co.*, 209 F.2d 380,
7 385 (9th Cir. 1953). In addition, this Court may take judicial notice of its own records.
8 *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.* 442 F.3d 741, 746 n.6 (9th Cir. 2006).
9 Documents ## 20-15, 20-16, 20-17 and Doc. #20, Ex. T are official government records
10 created by the public agencies West County Board of Zoning Adjustments and the
11 Alameda County Board of Supervisors and have been filed with this Court. These
12 records are undisputed, easily verifiable, and referenced throughout the Complaint.
13 (See Complaint for Damages, Injunctive Relief and/or Declaratory Judgment at ¶¶ 30,
14 32, 37.)

15 For the foregoing reasons, Documents ## 20-15, 20-16, 20-17 and Doc. #20,
16 Ex. T may be properly considered by the Court in ruling on Defendants’ motion to
17 dismiss.

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20 DATED: December 3, 2012 DONNA R. ZIEGLER,
21 County Counsel, County of Alameda

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23 By /s/ Mary Ellyn Gormley
24 MARY ELLYN GORMLEY
25 Assistant County Counsel
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27 Attorneys for Defendants
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